

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF WEST VIRGINIA  
ELKINS**

**KIMBERLY LANDIS** and **ALVA NELSON**,  
as parents and guardians of A.N., a minor,

Plaintiffs,

v.

**Civil Action No. 2:11-CV-101  
(BAILEY)**

**HEARTHMARK, LLC**, d/b/a Jarden Home  
Brands, **WAL-MART STORES, INC.**,  
**C.K.S. PACKAGING, INC.**, **PACKAGING  
SERVICE COMPANY, INC.**, and  
**STULL TECHNOLOGIES, INC.**,

Defendants/Third Party Plaintiffs,

v.

**KIMBERLY LANDIS** and **ALVA NELSON**,  
in their individual capacities,

Third Party Defendants.

**ORDER DENYING DEFENDANT HEARTHMARK, LLC'S MOTION IN  
LIMINE TO EXCLUDE EVIDENCE OFFERED TO SUGGEST THAT INDOOR  
USE OF THE PRODUCT WAS IMPROPER OR CAUSED A.N.'S INJURIES**

Pending before this Court is Defendant Hearthmark, LLC's Motion in Limine to Exclude Evidence Offered to Suggest That Indoor Use of the Product Was Improper or Caused A.N.'s Injuries [Doc. 617]. The Motion has been briefed and is ripe for decision.

In the above Motion, the defendant seeks to exclude all evidence from the trial of this matter offered to suggest that indoor use of Diamond Fire Starter Gel was improper or caused A.N.'s injuries.

In response the plaintiffs and defendant Packaging Service Co., Inc., have noted that concern was expressed to Hearthmark that the gel in question should not be used in enclosed spaces. Hearthmark's own expert has opined that the cause of the incident was the ignition of vapors.

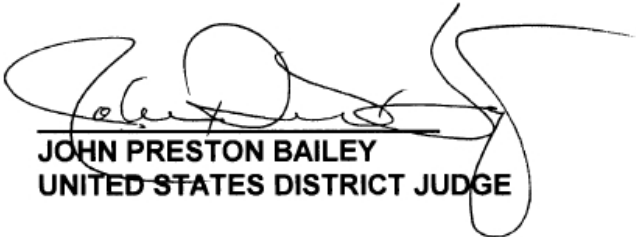
The evidence which is intended to be presented is relevant and probative.

Accordingly, Defendant Hearthmark, LLC's Motion in Limine to Exclude Evidence Offered to Suggest That Indoor Use of the Product Was Improper or Caused A.N.'s Injuries [Doc. 617] is **DENIED**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein.

**DATED:** January 15, 2014.



**JOHN PRESTON BAILEY**  
**UNITED STATES DISTRICT JUDGE**